

*Emergencies Act*

the Government can declare a public order emergency under Part II, the emergency situation must correspond to the definition of a national emergency as stated in the preamble.

I am told that this double test, as it is called, will be used by the courts to assess the Government's compliance with the deliberate constraints and safeguards that have been built into the definitions of this Bill. For greater clarity, let me read again the definition of a national emergency which appears in the preamble of the Bill. Since it seems to have been overlooked by some people, it bears repetition. A "national emergency" is defined as follows:

—an urgent and critical situation of a temporary nature that imperils the well-being of Canada as a whole or that is of such proportions or nature as to exceed the capacity or authority of a province to deal with it and thus can be effectively dealt with only by Parliament in the exercise of the powers conferred on it by the Constitution.

I am sure all Members of this House will appreciate that the standard established in this definition is very stringent, indeed. Before the Government can declare a national emergency under this act, the emergency in question must affect the whole of Canada or be so great as to exceed the capacity of the provinces to cope with the emergency. When this definition is read against the definition of "threats to the security of Canada" in Clause 14, and in conjunction with provisions that the emergency must necessitate the taking of special temporary measures for dealing with it, and that the special measures must be reasonable, it is apparent that the benign and benevolent activities such as ministerial contacts with the African National Congress, would never amount to a national emergency, as someone suggested, requiring invocation of the Emergencies Act.

To the challenge that a public order emergency also gives Cabinet the right to prohibit public assembly, and that a Canadian could have difficulty in availing himself or herself of the right to protest peacefully the declaration of emergency powers, I would reply that there are absolutely no restrictions on the freedom of expression, thought, conscience or religion under this part of Bill C-77. Unlike the War Measures Act, Part II of Bill C-77 confers no new powers relating to search, seizure, arrest or detention. The provisions of the Criminal Code in these areas are considered adequate to ensure law and order. Restricting public assembly would be authorized only to protect lives and property during a serious national emergency.

Let me dwell on this for a moment because I think it is a very important point which the House should recognize. One of the grave threats to civil liberties that is contained in the War Measures Act, as it stands today, was shown very markedly in the regulations under the War Measures Act when it was invoked in October 1970. We found civil liberties across the country suspended in order to deal with the situation which was relatively isolated in terms of its implication. Even though the FLQ problems that existed were taking place in the Province of Quebec, people as far away as Vancouver, British Columbia, or Guelph in Wellington County in my area, found their civil liberties were suspended as well. This is a much more finely tuned piece of legislation.

In the Province of Quebec people found that there suddenly was a retroactive crime being created. This will not be possible under Bill C-77. This section of the Bill gives no new powers of arrest. We will not have under the powers of this Bill in Part II, the knock on the door in the middle of the night because of a crime being created retroactively. We will not have the situation that someone who once attended a meeting of an organization would have the burden of proof shifted onto him to prove he is not a member of that organization. How could any of us be expected to prove we do not belong to an organization? It may be easily possible to prove we do belong to some organization such as a church, political party or any other organization, but how can we prove conclusively that we do not belong to an organization if attendance at a meeting is deemed to be adequate proof that we do.

That is the problem today with the War Measures Act. That is how civil liberties were affected in October of 1970. That is the sort of abuse we are determined to correct. It is essential that we have legislation in a period of time that better protects civil liberties.

As for the notion that a legitimate protest against the emergency declaration could be suppressed and no one would find out, or that the Government could censor the media or simply forbid travel to the troubled area, and that it would be difficult for anyone to find out if the declaration of an emergency was justified if no one was allowed in or out of the area, I reply that there is no mention at all of censorship in this part of the Bill. In fact, censorship would be possible only during a war emergency under Part IV. Restrictions on travel would be limited to the area of the emergency and only reasonable restrictions on travel would be permitted, that is, restrictions which would prevent further loss of life by creating an evacuation zone, for instance.

Some have concerns about the clause dealing with international emergencies. They suggest that the definition of an international emergency is extremely broad and that the Bill speaks of a threat to any country in which the political, economic or security interests of Canada, or any of its allies, are involved. As in the case of the definitions in each of the other parts, this definition should be looked at within the context of the definition of a national emergency as stated in the preamble. There is no way that an incident such as an attack on the *Stark*, for example, would amount to a national emergency in Canada.

I would suggest that Members of this House read carefully through the definition of an national emergency in the preamble and to read it opposite the definition of an "international emergency" in Clause 25. It is clear that an international emergency must first be so serious as to constitute a national emergency in Canada before the Government can declare the emergency. In my view, only a global crisis of major proportions could ever meet the high double test established here.

I welcome the opportunity to deal with this issue in committee, and if wording can be found that will clarify the definition of "international emergency" without destroying our ability to